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ZIM AMERICAN INTEGRATED
SHIPPING SERVICES, INC.,

07 CIV. 8486 (BSJ)

Plaintiff,

- against -

KX INDUSTRIES, L.P.,

Defendant.
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MEMORANDUM OF LAW

Facts

This action was commenced seeking \$2,448.00 in unpaid ocean freight. Defendant was served on October 26, 2007, and failed to answer.

POINT I

THE COURT MAY ENTER A DEFAULT JUDGMENT

Under Fed.R.Civ.P. 55(b)(2), the Court may enter a judgment by default, so long as the Court, in its discretion, can ascertain from the facts set forth in the Complaint that a judgment is warranted. *Au Bon Pain v. Arctect, Inc.*, 653 F.2d 61, at 65 (2d. Cir. 1981). Plaintiff submits that the affidavit of Adrienne James, together with the Complaint, Bill of Lading, and dishonored check, satisfies the requirement of sufficient proof of the accuracy of the allegations of the Complaint.

"It is firmly established that [a]llowance of pre-judgment interest in admiralty [actions] . . . should be granted in the absence of exceptional circumstances, and that the rate of pre-judgment interest is within the broad discretion of the district court." Mentor Ins. Co. (U.K.) Ltd. v. Brannkasse, 996 F.2d 506, 520 (2d. Cir. 1993) (Internal citations and quotations omitted.) Plaintiff submits that 6% from the dates of the bills of Lading is proper.

CONCLUSION

Judgment by default, with interest, is appropriate.

Dated: New York, New York
December 18, 2007

LAW OFFICES OF
ALBERT J. AVALLONE & ASSOCIATES

By


Albert J. Avallone - AA1679
Attorneys for Plaintiff
ZIM AMERICAN INTEGRATED
SHIPPING SERVICES, INC.
551 Fifth Avenue, Suite 1625
New York, NY 10176
(212) 696-1760

CITY OF NEW YORK)
 STATE OF NEW YORK) SS:
 COUNTY OF NEW YORK)

Albert J. Avallone, being duly sworn, deposes and says that he is a member of the Law Offices of Albert J. Avallone & Associates, attorneys for plaintiff herein.

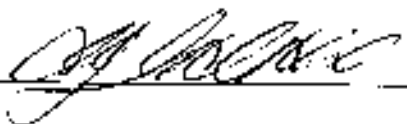
That on the 18th day of December, 2007, he served the within Memorandum of Law in Support of Motion for Entry of Judgment by Default

upon the following:

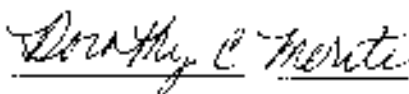
KX Industries, L.P.
 1 Corporate Center
 Hartford, CT 06103

by depositing (a) true copy(ies) of the same securely enclosed in (a) postpaid wrapper(s) in a Post Office Box regularly maintained by the United States Government at 551 Fifth Avenue, New York, NY 10176, directed to the above mentioned individual(s) at his (their) respective address(es) above, that (these) being the address(es) within the State designated by him (them) for that purpose upon the preceeding papers in this action or the place where he (they) then kept an office, between such places, there then was and now is a regular communication by mail.

Deponent is over the age of 18 years.



Sworn to before me this
 18th day of DECEMBER, 2007



DOROTHY C. MERITE
 Notary Public, State of New York
 No. 314961227
 Qualified in New York County
 My Commission Expires 12/10